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UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

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In re

BROOK ARIAS and DAVID ARIAS,

Debtors.

EDUCATIONAL EMPLOYEES
CREDIT UNION,

Movant,

vs.

BROOK ARIAS, Debtor; DAVID ARIAS,
Debtor; BETH MAXWELL STRATTON,
Chapter 7 Trustee,

Respondents.

Case No. 10-14524-A-7

Chapter 7

DC No. DJP-1

Date: June 22, 2010

Time: 1:30 P.M.

Dept: A

CtRm: 11

U.S. Courthouse
2500 Tulare Street, 5th Floor
Fresno, California

MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND
FOR WAIVER OF FRBP 4001(a)(3)

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1 EDUCATIONAL EMPLOYEES CREDIT UNION (“Movant”) by and
2 through its attorney, Don J. Pool, hereby moves for an Order Granting Relief from Stay and
3 for Waiver of FRBP 4001(a)(3) as to BROOKE and DAVID ARIAS (“Debtors”) and BETH
4 MAXWELL STRATTON, the Chapter 7 Trustee (“Trustee), to permit Movant to exercise its
5 lien enforcement rights on and to that certain personal property described as a 2001 Ford
6 Truck F250 Super Duty Crew Cab Short Bed, bearing the vehicle identification number
7 1FTNX21S41EA06630 (“the Property”), based on the following:

8 1. Debtors filed a Voluntary Petition under Chapter 7 on April 27, 2010.
9 2. Pursuant to 11 U.S.C. § 362(d)(1), relief from stay is warranted in that
10 “cause” exists for relief in that Debtors have failed to surrender the Property as stated in their
11 Statement of Intentions. J.Akins dec., at ¶ 14. In addition, the Property is depreciating and
12 Debtors have failed to make post-petition payments and/or return the Property.

13 3. Relief is also warranted under 11 U.S.C § 362(d)(2), in that there is no
14 equity in the Property and it is not necessary for an effective reorganization.

15 4. As of May 10, 2010, the outstanding balance on the Property was
16 approximately \$17,221.82. Id. at ¶ 13.

17 5. The Kelley Blue Book wholesale value for the Property is
18 approximately \$6,325.00. Id. at exh. C.

19 6. Debtors valued the Property on Schedule D of their petition at \$4,950.00.
20 Debtors scheduled Movant’s secured claim as \$16,846.00. Id. at ¶ 11.

21 7. There is no equity in the Property for the benefit of the Debtors or the
22 Estate. Id. at ¶ 16.

23 8. Movant submits the Declaration of John Akins in support of its
24 Motion.

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Based on the foregoing, Movant requests that the Court grant Movant's Motion for Relief from the Automatic Stay to pursue its rights to the Property under state law, and that the 14-day stay prescribed by Bankruptcy Rule 4001(a)(3) be waived.

Dated: May 26, 2010

THE LAW FIRM OF POWELL & POOL

/ s / Don J. Pool
DON J. POOL, Attorneys for
EDUCATIONAL EMPLOYEES CREDIT UNION

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